

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

**(Continuation of California Notice Register 2007, No. 7-Z,
and Meetings of February 2 and March 2, 2007)**

NOTE: The Fish and Game Commission is exercising its powers under Section 202 of the Fish and Game Code as the following changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice—changes are shown in **bold** type.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 316.5 and 2084 of said Code, proposes to amend Section 27.80, Title 14, California Code of Regulations, relating to ocean salmon sport fishing.

Updated Informative Digest/Policy Statement Overview

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean fishing regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). The PFMC is responsible for adopting annual recommendations for the management of sport and commercial ocean fisheries in the Federal fishery management zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by the National Marine Fisheries Service (NMFS).

The State's recreational fishing regulations will need to conform to the new Federal rules. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport fishery in State waters (0 to 3 miles offshore) which are consistent with Federal fishery management goals and are effective at the same time.

The text in bold below replaces the text from original Initial Statement of Reasons (ISOR) and Informative Digest. This text was replaced since the PFMC March recreational season options shown below allow for better fishing opportunities than portrayed in the original ISOR.

Since the development of the ISOR, the PFMC released its *Preseason Report I: Stock Abundance Analysis for 2007 Ocean Salmon Fisheries* which predicts a higher than previously expected Klamath River Fall Chinook (KRFC) ocean abundance for 2007. This projection provides for increased recreational fishing opportunities from the 2006 season.

At its meeting March 5-9, 2007 in Sacramento, California, the PFMC proposed three 2007 season options for public review which provide a range of nine to 13 percent increase overall in the available fishing days as compared to 2006. The final PFMC regulation recommendations will be made on April 6, 2007 in Seattle, Washington.

Under all three options, the season structure is similar to 2006 regulations except as follows:

Option 1

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the open season is May 1 to September 4 (70 more days). The area between Horse Mountain and Point Arena is open from February 17 to November 11 (20 more days). The area between Point Arena and Pigeon Point (below San Francisco) is open from April 7 to November 11 (three fewer days). The area south of Pigeon Point is open from April 7 to October 7 (seven more days).

Option 2

Seasons: For north of Horse Mountain and Humboldt Bay, the open season is May 26 to September 5 (46 more days) with an eight fish in seven consecutive days weekly bag limit. The area between Horse Mountain and Point Arena is open from February 17 to November 11 (20 more days). The area between Point Arena and Pigeon Point is open from April 7 to November 11 (three fewer days). The area south of Pigeon Point is open from April 7 to October 7 (seven more days).

Option 3

Seasons: For north of Horse Mountain and Humboldt Bay, the open season is May 26 to July 4 and July 15 to September 9 (40 more days) with a six fish in seven consecutive days weekly bag limit. The area between Horse Mountain and Point Arena is open from February 17 to November 11 (20 more days). The area between Point Arena and Pigeon Point is open from April 7 to November 11 (three fewer days). The area south of Pigeon Point is open from April 7 to October 7 (seven more days).

For all options, the 2008 opening dates between Horse Mountain (above Shelter Cove) and Point Arena (below Fort Bragg) will be February 16, and April 5 south of Point Arena. Additional minor changes were made to the regulations for clarity.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the UC Davis, Bodega Bay Marine Laboratory, Lecture Hall, 2099 West Side Road, Bodega Bay, California, on Friday, April 13, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 6, 2007, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 9, 2007. All comments must be received no later than April 13, 2007, at the hearing in Bodega Bay, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct

inquiries to John Carlson, Jr., or Sherrie Koell at the preceding address or phone number. **Mr. Gary Stacey, Manager, Marine Region, Department of Fish and Game, phone (562) 342-7108, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The 2007 ocean recreation salmon regulations may range from a 9.1 to 13.4 percent increase in available ocean salmon angling days as compared to 2006. Depending on which option is finally adopted by the PFMC, the incremental impacts to total economic output, from the proposed 2007 ocean recreation salmon regulations, could be as much as a \$2.1 million increase in output for industry that provide goods and services to ocean salmon anglers. Industry output projections for each Option 1, 2, 3 are \$2,121,400, \$1,579,800, and \$1,444,400, respectively. Consequently, the range of proposed actions for the 2007 salmon regulations would not have an adverse impact to businesses, relative to year 2006. It is unlikely that this would affect the ability of California businesses to compete with businesses in other states.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Depending on which 2007 options are finally adopted by the PFMC, the incremental economic impacts to jobs within the State may increase by 17 to 25 new full-time job equivalents. Likewise impacts to total personal earnings could be an increase by \$1,095,300, \$815,700, or \$745,800, for Option 1, 2, or 3, respectively.

- (c) Cost Impacts on a Representative Private Person or Business:

There are no new or additional reporting requirements called for in the proposed regulations. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: **None.**
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Date: March 20, 2007

Jon K. Fischer
Assistant Executive Director